



6351-01-P

## **COMMODITY FUTURES TRADING COMMISSION**

**17 CFR Parts 1, 15, 17, 19, 32, 37, 38, 140, and 150**

**RIN 3038-AD99; 3038-AD82**

### **Position Limits for Derivatives and Aggregation of Positions**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking; extension of comment periods.

**SUMMARY:** On December 12, 2013, the Commodity Futures Trading Commission (“Commission”) published in the Federal Register a notice of proposed rulemaking (the “Position Limits Proposal”) to establish speculative position limits for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts. On November 15, 2013, the Commission published in the Federal Register a notice of proposed rulemaking (the “Aggregation Proposal”) to amend existing regulations setting out the Commission’s policy for aggregation under its position limits regime. In addition, the Commission directed staff to hold a public roundtable on June 19, 2014, to consider certain issues regarding position limits for physical commodity derivatives. In order to provide interested parties with an opportunity to comment on the issues to be discussed at the roundtable, the Commission published notice in the Federal Register on May 29, 2014, that the comment periods for the Position Limits Proposal and the Aggregation Proposal were reopened, starting June 12, 2014 (one week before the roundtable) and ending July 3, 2014 (two weeks following the roundtable). To provide commenters with a sufficient period of time to respond to questions raised and points made at the roundtable, the

Commission is now further extending the comment period. Comments should be limited to the issues of hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption; the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption; the setting of non-spot limits for wheat contracts; the aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies.

**DATES:** The comment periods for the Aggregation Proposal published November 15, 2013, at 78 FR 68946, and for the Position Limits Proposal published December 12, 2013, at 78 FR 75680, will close on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by RIN 3038–AD99 for the Position Limits Proposal or RIN 3038–AD82 for the Aggregation Proposal, by any of the following methods:

- Agency website: <http://comments.cftc.gov>;
- Mail: Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581;
- Hand delivery/courier: Same as mail, above; or
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow instructions

for submitting comments.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will

be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted under § 145.9 of the Commission's regulations (17 CFR 145.9).

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Stephen Sherrod, Senior Economist, Division of Market Oversight, (202) 418-5452, [ssherrod@cftc.gov](mailto:ssherrod@cftc.gov); or Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, (202) 418-5494, [radriance@cftc.gov](mailto:radriance@cftc.gov); Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Commission has long established and enforced speculative position limits for futures and options contracts on various agricultural commodities as authorized by the Commodity Exchange Act ("CEA").<sup>1</sup> The part 150 position limits regime<sup>2</sup> generally

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<sup>1</sup> 7 U.S.C. 1 et seq.

includes three components: (1) the level of the limits, which set a threshold that restricts the number of speculative positions that a person may hold in the spot-month, individual month, and all months combined,<sup>3</sup> (2) exemptions for positions that constitute bona fide hedging transactions and certain other types of transactions,<sup>4</sup> and (3) rules to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.<sup>5</sup> The Position Limits Proposal generally sets out proposed changes to the first and second component of the position limits regime and would establish speculative position limits for 28 exempt and agricultural commodity futures and option contracts, and physical commodity swaps that are “economically equivalent” to such contracts (as such term is used in CEA section 4a(a)(5)).<sup>6</sup> The Aggregation Proposal generally sets out proposed changes to the third component of the position limits regime.<sup>7</sup>

In order to provide interested parties with an opportunity to comment on the Aggregation Proposal during the comment period on the Position Limits Proposal, the Commission extended the comment period for the Aggregation Proposal to February 10, 2014, the same end date as the comment period for the Position Limits Proposal.<sup>8</sup>

Comment letters received on the Position Limits Proposal are available at <http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1436>. Comment letters received on the Aggregation Proposal are available at <http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1427>.

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<sup>2</sup> See 17 CFR part 150. Part 150 of the Commission’s regulations establishes federal position limits on futures and option contracts in nine enumerated agricultural commodities.

<sup>3</sup> See 17 CFR 150.2.

<sup>4</sup> See 17 CFR 150.3.

<sup>5</sup> See 17 CFR 150.4.

<sup>6</sup> See Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013).

<sup>7</sup> See Aggregation of Positions, 78 FR 68946 (Nov. 15, 2013).

<sup>8</sup> See 79 FR 2394 (Jan. 14, 2014).

## **II. Extension of Comment Period**

Subsequent to publication of the Position Limits Proposal and the Aggregation Proposal, Commission directed staff to schedule a June 19, 2014, public roundtable to consider certain issues regarding position limits for physical commodity derivatives. The roundtable focused on hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption. Discussion included the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption. Further, the roundtable included discussion of: the aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies. As well, the Commission invited comment on whether to provide parity for wheat contracts in non-spot month limits. In conjunction with the roundtable, staff questions regarding these topics were posted on the Commission's website.

To provide commenters with a sufficient period of time to respond to questions raised and points made at the roundtable, the Commission is further extending the comment periods for the Position Limit Proposal and the Aggregation Proposal. Thus, both comment periods will end on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Issued in Washington, DC, on June 27, 2014, by the Commission.

Christopher J. Kirkpatrick,

Acting Secretary of the Commission.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

**Appendix to Position Limits for Derivatives and Aggregation of Positions Extension  
of Comment Periods – Commission Voting Summary**

On this matter, Chairman Massad and Commissioners O'Malia, Wetjen, and Giancarlo voted in the affirmative. No Commissioner voted in the negative. Commissioner Bowen did not participate in this matter.

[FR Doc. 2014-15618 Filed 07/02/2014 at 8:45 am; Publication Date: 07/03/2014]